

SPECIAL TOWN BOARD MEETING OF NOVEMBER 9, 2011

PRESENT:	Supervisor	Teresa Dean
	Council	Mike Smith
		Andy Gillette
		Edward Fairbrother
	Attorney	Frederick Ahrens
	Town Clerk	Linda Cross

Supervisor Dean called the Town Board meeting to order at 4:30 p.m. and requested those present to participate in the Pledge of Allegiance.

PUBLIC HEARING    4:30 p.m.                      Local Law No.6 of 2011  
2012 Preliminary Budget/Elected Officials Salary

Supervisor Dean called the public hearing to order at 4:31 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 1, 2011, which allowed and considered public comments from any interested parties here in, at the time specified concerning the 2012 Preliminary Budget/Elected Officials Salary a proposed local law titled otherwise known as Local Law #6 of 2011.

IN FAVOR:    None

OPPOSITION: Tom Gorman, 244 State Route 352 stated that nobody should get a 3% raise.

COMMENTS: None

Since there were no further comments, Supervisor Dean closed the Public Hearing at 4:34 p.m.

PUBLIC HEARING    4:32 p.m.                      Local Law No.4 of 2011 –  
Proposed Local Law to override the Tax Levy Limit

Supervisor Dean called the public hearing to order at 4:35 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 1, 2011, which allowed and considered public comments from any interested parties here in, at the time specified concerning a proposed local law to override the Tax Levy Limit otherwise known as Local Law #7 of 2011.

IN FAVOR:    None

OPPOSITION: Steve Teets, 10 Farr Lane, Elmira expressed concerns with the override. He also asked if the 2% cap has to be done annually. Supervisor Dean replied it was.

COMMENTS: Jane King 15 Kelly Drive, Big Flats is concerned with the increase of the Fire Department budget which is include in the Town Budget, and how the Fire

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Department continues to increase their taxes even though there is a 2% tax cap. We (the tax payers) don't have control over it and cant make any changes.

Since there were no further comments, Supervisor Dean closed the Public Hearing at 4:40 p.m.

PUBLIC HEARING 4:40 p.m. Proposed Fire Protection District No. 1

Supervisor Dean called the public hearing to order at 4:40 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 1, 2011, which allowed and considered public comments from any interested parties here in, at the time specified concerning proposed Fire Protection District No. 1.

IN FAVOR: None

OPPOSITION: None

COMMENTS: None

Since there were no further comments, Supervisor Dean closed the Public Hearing at 4:42 p.m.

### CONCERNS OF THE PEOPLE

Supervisor Dean provided the Board with a written response regarding a concern that was raise at our last Town Board Meeting relative to the sign size at the Dandy Mini Mart.

Steve Teets, 10 Farr Lane, Elmira, asked the Town Board if Farr Lane was going to be repaved this year. Supervisor Dean stated drainage was completed for that road but not any surface this year.

Councilperson Fairbrother stated on October 29<sup>th</sup> the Youth Department had a Fall Festival and stated what a phenomenal job Marge Termain and Trish Hutten did. Everyone had a great time, and how well attended it was and wanted to express his appreciation on everything they did.

### OLD BUSINESS

#### RESOLUTION NO. 226-11

ESTABLISHING THE ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2012 APPROVED

Resolution by: Fairbrother

Seconded by: Smith

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RESOLUTION NO. 226-11, ESTABLISHING THE ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2012  
APPROVED continued

WHEREAS pursuant to Municipal Home Law, Section 24, the Town must adopt a Local Law subject to a referendum setting the salaries of all elected officials and those officials who have a fixed term of office, and

WHEREAS the Town Board has reviewed the salaries of certain elected or appointed officials of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012, which some individuals are presently serving mid-term, and

WHEREAS a Local Law Tentatively No. 6 for the Year 2011, establishing the annual salaries of such appointed officials for the Fiscal Year 2012, and

WHEREAS a public hearing was duly held on November 9, 2011 and all interested parties were heard, now

THEREFORE, BE IT RESOLVED the Town Board approves Local Law Tentatively No. 6 for the Year 2011, establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012, as follows:

**TOWN OF BIG FLATS  
LOCAL LAW TENTATIVELY NO. 6 FOR THE YEAR 2011**

**A LOCAL LAW** establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012.

Be it enacted by the Town Board of the Town of Big Flats as follows:

**SECTION 1:** Except where inconsistent by operation of law due to prohibitions of increases of compensation during a fixed term of office for Town officers and employees as provided in Municipal Home Rule Law §24 be, and the same hereby is, applicable to officers and employees having a fixed term of office, whether elected or appointed, as are any and all resolutions of the Town of Big Flats Town Board relative to rights and entitlements of Town executive and management personnel.

**SECTION 2:** Effective with the first town payroll for the Town Fiscal Year 2012 the annual salaries of the certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office are hereby established for the Fiscal Year 2012 as follows, to wit:

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RESOLUTION NO. 226-11, ESTABLISHING THE ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2012  
APPROVED continued

<u>TITLE</u>	<u>2011 SALARY</u>	<u>2012 SALARY</u>
Town Supervisor	\$31,000	\$31,000
Town Council (4)	\$ 7, 004 each	\$ 7,004 each
Town Justice (2)	\$19,096 each	\$19,478 each
Town Clerk	\$34,000	\$35,020
Tax Collector	\$ 7,224	\$ 7,224
Assessor	\$37,390	\$38,512
Commissioner of Public Works	\$84,011	\$84,011

**SECTION 3:** Should any of the above positions become vacant and subsequently filled by one other than the present incumbent, the salary shall in that instance be set by the Town Board prior to filling said vacancy.

**SECTION 4:** This Local Law shall become effective, subject to a permissive referendum, forty-five (45) days after the date of its final adoption and on the date it is duly filed in the Office of the Secretary of State of the State of New York and in accordance with the provisions of the Municipal Home Rule Law of the State of New York..

FURTHER RESOLVED the Local Law is subject to a permissive referendum of the qualified electors of the Town of Big Flats by filing of a legal petition within forty-five (45) days after its final adoption, with the Clerk of the Town of Big Flats protesting such Local Law.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean  
NAYS: None

RESOLUTION NO. 227-11  
OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW  
SECTION 3-C APPROVED

Resolution by: Smith  
Seconded by: Gillette

WHEREAS the governor and legislature of the State of New York have enacted a tax levy limit of 2% increase over the preceding year levy, and

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RESOLUTION NO. 227-11, OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN  
GENERAL MUNICIPAL LAW SECTION 3-C APPROVED continued

WHEREAS the budget of the Town of Big Flats is subject to audit by the Comptroller of the State of New York for compliance with the tax levy limit, and

WHEREAS definitive guidelines and rules as to how to calculate the 2% tax limit calculation are not in place and are subject to interpretation, and

WHEREAS under the above circumstances there could be inadvertent and unintentional non-compliance subjecting the Town to adverse consequences, and

WHEREAS to avoid the aforementioned adverse consequences it is prudent to adopt the within local law, and

WHEREAS a public hearing was duly held on November 9, 2011 and all interested parties were heard, now

BE IT THEREFORE RESOLVED there is hereby presented the Local Law tentatively No. 7 of the year 2011 for the Town of Big Flats as follows:

**TOWN OF BIG FLATS**

**Local Law to override the tax levy limit established in General Municipal Law 3-c**

**Section 1. Legislative Intent**

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Big Flats, County of Chemung pursuant to General Municipal Law § 3-c, and to allow the Town of Big Flats, County of Chemung to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed 3-C continued

by the town board for the fiscal year 2012 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

**Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

**Section 3. Tax Levy Limit Override**

The Town Board of the Town of Big Flats, County of Chemung is hereby authorized to adopt a budget for the fiscal year 2012 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

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RESOLUTION NO. 227-11, OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN  
GENERAL MUNICIPAL LAW SECTION 3-C APPROVED continued

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.

FURTHER RESOLVED the town board approves said Local Law to override the tax levy limit established in General Municipal Law 3-c.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean  
NAYS: None

RESOLUTION NO. 228-11  
FIRE PROTECTION DISTRICT NO. 1 CONTRACT WITH TOWN AND COUNTRY FIRE  
DEPARTMENT APPROVED

Resolution by: Gillette  
Seconded by: Fairbrother

WHEREAS the Town of Big Flats has Fire Protection District No. 1 within the Town that requires an agreement for the purposes of providing fire and emergency protection, and  
WHEREAS the Town Board duly advertised and held a public hearing on November 9, 2011,  
and

WHEREAS for environmental purposes, agency administration is a Type II Action in accordance with 6NYCRR Part 617.5(c)(20) and as such, no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor to sign the Agreement for Fire Protection District #1 with Town and Country Fire District for renewal of said Agreement for 2012 in the amount of \$172,971.60; for 2013 in the amount of \$176,431.03; and for 2014 in the amount of \$179,959.65 subject to the review and approval of the Attorney for the Town.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean  
NAYS: None

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NEW BUSINESS

RESOLUTION NO. 229-11  
DEFERED COMPENSATION AMENDMENT APPROVED

Resolution by: Fairbrother  
Seconded by: Smith

WHEREAS, the current deferred compensation program does not authorize the borrowing against a deferred compensation account; and

WHEREAS, a request has been made for a borrowing of an emergent nature; and

WHEREAS, it is necessary for Town Board to authorize an amendment of the deferred compensation plan to allow for said borrowing; and

WHEREAS, the union has agreed to authorize such borrowing thus to allow the amendment for all employees, not just non-union employees; and now

THEREFORE BE IT, resolved the Town Supervisor is authorized and directed to execute the requisite documentation to authorize the execution of the requisite documentation to allow for a borrowing against the deferred compensation program for matter of an emergent nature; and

BE IT FURTHER RESOLVED, said amendment is to be approved by the attorney for the Town of Big Flats; and

BE IT FURTHER RESOLVED, Clerk of Town Board to forward certified copies to the deferred compensation program / "NRS" and the union.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean  
NAYS: None

The deferred compensation amendment will include a provision allowing withdrawal for primary residents with a 15 year payback.

EXECUTIVE SESSION: Councilperson Fairbrother made a motion, seconded by Councilperson Smith, to enter into Executive Session to discuss particular personnel matter with no resolution. All in favor, motion carried.

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to adjourn the Special Town Board meeting at 4:56 p.m. All in favor, motion carried.

Date approved: \_\_\_\_\_

Linda J. Cross  
Town Clerk